

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SEVEN

In re JENNIFER P. et al., Persons Coming  
Under the Juvenile Court Law.

B222160  
(Los Angeles County  
Super. Ct. No. CK79435)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

JOSE P.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County.

D. Zeke Zeidler, Judge. Affirmed.

Eva E. Chick, under appointment by the Court of Appeal, for Defendant  
and Appellant Jose P.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant  
County Counsel, and Judith A. Luby, Principal Deputy County Counsel, for Plaintiff and  
Respondent.

---

## ***INTRODUCTION***

This is an appeal from the dependency court's denial of a father's motion for sanctions against the Los Angeles County Department of Children and Family Services for failure to follow the court's order for monitored visitation. We affirm.

## ***FACTUAL AND PROCEDURAL SUMMARY***

On October 12, 2009, the Los Angeles County Department of Children and Family Services (Department) received a referral after Jose P.'s sixteen-year-old daughter Stephanie was taken to the hospital and found to have a high level of alcohol as well as amphetamines in her system. At the time, Stephanie and her sisters Jennifer (then 17) and Kathleen (12) were living with Jose, his girlfriend and their toddler. Stephanie was reportedly very depressed and distraught. According to Stephanie, her father berated her, calling her "stupid" and "good for nothing," and said she acted just like her mother. Stephanie said Jose was very controlling and violent and she was "really afraid" of him. She said he liked to push her around to intimidate her. Within the last two months, she said, he beat her with a belt, leaving bruises on her thighs. He kept guns at the house, and he got so angry she was afraid one day he would grab a gun and use it. She told the social worker the first time she got drunk was at his house because he "drinks all of the time" and has a lot of alcohol there.

Jose's eldest daughter Jennifer said she had seen Jose hit her sisters and said he had pulled a gun on her mother Blanca as well as her older half-brother's mother.<sup>1</sup> She said he was "very controlling" and "very smart." He would get you to believe he is a good person. "He knows what to say for you to believe him." She did not want to live with Jose because he was "dangerous" and she was "afraid of what [he] can do." She wanted to live with her mother who loved her and was always there for her children.

---

<sup>1</sup> She called her father "Raul" because she said he did not deserve to be called "Dad."

Kathleen said Stephanie was sad and depressed because their father “treats her bad.” Kathleen said Jose carried three guns, including one you could see sticking out of his pants while he walked around the house. She said he drank every day—beer and hard liquor. He yelled at her and slapped her across the face “very hard.”

The girls’ mother Blanca said it had taken her a long time to leave Jose. She said he drank all the time and had abused her, but he went to the police and said she had abused him so she had a domestic violence charge against her. She was afraid and did not report him. He always threatened he would contact immigration so she would be deported and leave her children behind.

Jose said he had done nothing wrong. He said the Department was harassing him over false information so Blanca could get custody of the girls. He said he “only hit [his daughters] when they were little.” He denied ever having any guns, but in the presence of a sheriff during the child safety evaluation, Jose’s adult son Miguel reported Jose carried a gun around his home and, when Miguel was younger, had put it to his mother’s head and threatened her.<sup>2</sup>

The Department detained the girls and placed them with their mother. In its petition, the Department alleged the girls were at risk of physical and emotional harm because of ongoing conflicts between their parents and ongoing disputes regarding their custody and care such that at least one expressed fear of her father and all three were unwilling to reside with him. (Welf. & Inst. Code, § 300, subd. (a), (b).)

At the detention hearing on October 20, Jose submitted on detention and requested visits “at least weekly.” Counsel for the girls said all three were “fearful” of Jose and wanted to remain with their mother. She asked that visitation be monitored and requested that the girls be assessed for therapy. In addition to drug and alcohol testing for Stephanie, the dependency court ordered therapy for the children to begin “immediately.”

---

<sup>2</sup> Shortly thereafter, Jose served his son with a legal notice to vacate his father’s home, stating Miguel owed \$6000 in unpaid rent.

Also, the court ordered monitored visits for Jose “at least weekly” to be monitored by a Department-approved monitor.

The following week, on October 27, the court ordered an Evidence Code section 730 evaluation of the family by Alfredo Crespo, Ph.D., including psychological testing to determine risk issues and make recommendations regarding placement, visitation and services to assist the family.

Dr. Crespo interviewed and conducted testing of the three girls, Jose and Blanca, and on November 23, prepared a 30-page report for the court. Kathleen told Dr. Crespo she had ““been scared of”” Jose ““for a long time already,”” because he was always hitting her with a belt, yelling at her and slapping her. She said she wanted to remain with her mother because ““it’s safer there,”” and she could talk to her mother; she said she wanted to have visits with Jose “eventually” because she “want[ed] it to be OK with him.” Stephanie confirmed she had had no visits with her father since she was removed from her father’s home; “I only want to see my little brother . . . .” She wanted to stay with her mother, and “later on, [when] all this goes by, go visit my Dad . . . . [E]ither way, he is going to [b]e my Dad. . . .” Jennifer said custody should remain as it was because Jose “abuses alcohol,” and “nothing positive comes out when he is drinking.” Now that her father was “more distant,” she said, she “like[d] it better that way. . . .”

Jose continued to deny the allegations against him. Regarding the allegation that he had raped Blanca when she worked as a housekeeper in his home while he was still married to his first wife (Miguel’s mother), he said, she was saying, “no, no, no,” “but one knows when a woman is giving in.” She said he had pulled her out from under her bed, “but when a woman does not want to . . . she locks her door.” According to psychological testing, Jose obtained a “significantly elevated score” on the “Narcissistic” scale, “usually suggestive of a chronic, self-serving orientation in relationships along with a vulnerability to experiencing deep, psychological wounds (‘narcissistic injuries’) when expectations regarding others go unmet.”

In Dr. Crespo's view, his evaluation of the family suggested a "rather lengthy history of family distress associated with the parents' separation and respective parenting challenges." Until recently, Blanca had apparently had difficulty keeping a steady job to allow her to provide for her daughters. The girls "are all deeply estranged from their father. . . . [T]heir obvious difficulties with coping, most dramatically reflected in Stephanie's accidental overdose/alcohol abuse certainly suggest the level of parent child conflict with their father stems from far more than pure efforts to manipulate the Court system into permitting them to live with their mother." He said the girls should remain with their mother. "However, they should be referred for conjoint Family Therapy with their father for discussions of their mutual exhaustion vis-à-vis the unresolved Family Court issues that without any doubt have lingered and underlie the current family circumstances." He also recommended individual counseling for Stephanie and Kathleen.

In its jurisdiction and disposition report, the Department advised the court of two prior referrals involving the family, and noted that, in 2002, a therapist had recommended if Jose had visitation, it should be monitored in a therapeutic setting. In 2001, at the time of his domestic violence conviction, Jose was forbidden to own or possess any deadly weapons or firearms for 10 years. Each of the girls was interviewed privately, and each recounted instances of Jose's physical and emotional abuse, daily drinking, including when he would be driving with the girls in his car, and gun possession. Jose continued to insist that he had no guns, never hit the girls and did not drink more than possibly a beer at dinner. He refused to discuss an arrest for driving under the influence other than to say, "We all make mistakes." According to the girls' attorney in the family law court, there were allegations of violence early in the case, but Blanca's lack of employment and lack of a stable living arrangement outweighed the violence allegations.

In addition, the Department advised the dependency court, "[A]t the completion of this report, the children have not had visits with their father. The children stated to this investigator that they do not wish to have visits with their father at this time. The

children stated that they are very afraid of their father and believe that their father will lash out at them now that they have told the Department about [his] alcohol abuse, gun possession[], and the physical abuse towards the children. This investigator discussed with the children the possibility of having visits with their father in a therapeutic setting. The children stated that they just underwent the initial mental health assessment and stated that they would be open to visits with a therapist once their own therapy is underway. [¶] The Department continues to encourage the children to have visits with their father; however, the children remain adamant about not having visits at this time. The Department will be sending a copy of this report, the [Department's] Detention report, and the [Evidence Code section] 730 psychological evaluation to the children's therapist and will discuss including the father in future therapeutic sessions." The social worker had met with the girls in their mother's home on October 26, November 2, November 17, November 24 and December 2.

At the December 8 hearing, Jose's counsel addressed the fact Jose had not had any visits with his daughters. "Apparently a visit was going to be set up, and then the children said they did not want to see their father, but it's not for the children to determine whether they want to see their father or not. It's going to be in a monitored situation, and I'm requesting that the Department abide by the orders." The dependency court responded, "The Department is to immediately implement the court[-]ordered visitation for the father, and that is considered part of family reunification services."

On December 21, 2009, Jose filed a motion for sanctions pursuant to Code of Civil Procedure section 177.5 for the Department's failure to follow the court's October 20, 2009, order for monitored visitation for Jose. According to counsel's declaration, Jose advised her on December 16 a visit was scheduled for the following week.

At the January 25, 2010, hearing, the parties came to an agreement regarding the petition, and it was sustained as amended. Jose's visitation remained monitored with Department discretion to liberalize. With respect to Jose's motion for sanctions, counsel for the Department argued, "In this case, we have teenage children who refused to visit

with their father.” As the social worker indicated in her report, she “attempted to resolve this by doing social work, by meeting with the girls and telling them that they had to visit with their father and discussing with them the idea of visits in a therapeutic setting. [¶] They came around finally with the idea of visiting with [Jose] and in fact visits have been taking place.” He said the visits had begun even before the motion was filed. [T]he social worker in this case made great efforts to work with what was appropriate under the circumstances, with these girls that had refused to visit with their father.”

The court found “good cause shown for the failure . . . to follow [the court’s visitation] order” and, as a result, did not impose sanctions.

Jose appeals.

### ***DISCUSSION***

In his opening brief, Jose argued the dependency court’s failure to enforce its visitation order made it an illusory order. This was so, he said, because the court’s October 20, 2009 order provided Jose’s visits were monitored “at least weekly” and this order was reiterated on December 8, 2009. However, on January 25, 2010, Jose argued, the court eliminated “at least weekly” and, as a result, gave the Department discretion over whether and when such visits would occur. At a minimum, he said, the court should refashion its order to provide the Department with a specific order “enumerat[ing] how many visits/hours per week (at a minimum) he can visit with his daughters.” Then in his reply brief, noting the October 20, 2009 order for monitored visitation “at least weekly” was reiterated on December 8, 2009, and then *again* on January 25, 2010, Jose says he is *not* challenging the dependency court’s order for monitored visitation, but rather complains that the Department “inappropriately failed to follow the court’s monitored

visitation order” and the dependency court “failed to enforce its monitored visitation order” in denying his motion for sanctions.<sup>3</sup>

According to Jose, the dependency court abused its discretion by failing to impose sanctions against the Department as it lacked “good cause or substantial justification.”<sup>4</sup> “[A]ccording to Dr. Crespo,” he says, “the minors clearly wanted to repair their relationship with their father and have visits.” “By not sanctioning [the Department] because it disobeyed two court orders regarding father’s visitation, the court sent a message to [the Department] that [it is] excused from following court[] orders if a teenager allegedly does not want to visit with a parent.”

On October 20, 2009, the dependency court ordered monitored visitation for Jose “at least weekly.” Six weeks later, on December 8, the court was advised one visit had been scheduled on Thanksgiving, but that visit was canceled because Jose’s daughters refused to see him; at that time, the court ordered the Department to “immediately

---

<sup>3</sup> In his notice of appeal, Jose said he was appealing from the dependency court’s “denial of contempt against the [D]epartment re: my motion filed 12-21-09 and heard on 1-25-10.” To the extent he initially attempted to argue the January 25, 2010 order for continued monitored visitation was deficient because it gave the Department discretion to determine whether visits would even take place at all, it appears he has conceded the issue. The original order specified monitored visitation “at least weekly” and it was this order that was “reiterated” so this order was not deficient as was the case in *In re S.H.* (2003) 111 Cal.App.4th 310, 318-320, on which Jose relies. Indeed, in the dependency court, he never identified any ambiguity or confusion with respect to the parameters for visitation from January 25, 2010 forward.

<sup>4</sup> Code of Civil Procedure section 177.5 provides: “A judicial officer shall have the power to impose reasonable money sanctions, not to exceed fifteen hundred dollars (\$1,500), notwithstanding any other provision of law, payable to the court, for any violation of a lawful court order by a person, done without good cause or substantial justification. This power shall not apply to advocacy of counsel before the court. For the purposes of this section, the term ‘person’ includes a witness, a party, a party’s attorney, or both. [¶] Sanctions pursuant to this section shall not be imposed except on notice contained in a party’s moving or responding papers; or on the court’s own motion, after notice and opportunity to be heard. An order imposing sanctions shall be in writing and shall recite in detail the conduct or circumstances justifying the order.”



implement” the court-ordered monitored visitation. Less than two weeks later, on December 21, Jose filed a motion for sanctions against the Department pursuant to Code of Civil Procedure section 177.5 for failure to follow the court’s October 20, 2009 visitation order. By that time, visitation was taking place. The social worker documented her efforts to accomplish the court-ordered visitation despite the fact the girls “remain[ed] adamant” about not wanting to see him. Contrary to Jose’s representation, Dr. Crespo did not report that any one of the girls wanted to visit with their father at the time; rather he said all three were “deeply estranged” from their father. Nevertheless, visits were taking place within two months of the court’s October 20, 2009 order. On this record, Jose has failed to establish the dependency court abused its discretion in finding good cause shown for the Department’s prior failure to comply with the court’s monitored “at least weekly” visitation order. (*In re Woodham* (2001) 95 Cal.App.4th 438, 446; *In re S.H.*, *supra*, 111 Cal.App.4th at p. 317 [“It is the juvenile court’s responsibility to ensure regular parent-child visitation occurs while at the same time providing for flexibility in response to the changing needs of the child and to dynamic family circumstances”].)

### ***DISPOSITION***

The order is affirmed.

**WOODS, J.**

**We concur:**

**PERLUSS, P. J.**

**JACKSON, J.**